

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RED BARN MOTORS, INC., PLATINUM
MOTORS, INC., and MATTINGLY AUTO
SALES, INC., individually and on behalf of
other members of the general public similarly
situated,

Plaintiffs,

v.

NEXTGEAR CAPITAL, INC. f/k/a DEALER
SERVICES CORPORATION,

Defendant.

Case No. 1:14-cv-01589-TWP-DLP

DECLARATION OF JOHN WICK

1. I am over twenty-one years of age, of sound mind, and competent to make this declaration.

2. I currently serve as a Vice President for Defendant NextGear Capital, Inc. I have been with the company since it started in March 2005. In my role, I am responsible for, among other things, participating in general executive management of the company. In that capacity, I am familiar with our floor plan products and our marketing and sales strategy. This Declaration is based on my own personal knowledge, in reliance on the regular practices and procedures of NextGear, and on the records maintained by NextGear.

3. I have reviewed the class definition established by the Court in its February 26, 2020 Order. NextGear has over 20,000 active dealer customers that are not in the class certified by the Court.

4. From the preliminary class list produced in 2017, NextGear has identified 43 dealers that executed new floor plan agreements with NextGear after March 8, 2019. These dealers went through NextGear's standard underwriting and approval process. They signed the same form of promissory note as other dealers who have done business with NextGear since 2013, which contains an agreement to arbitrate and a class waiver. (A copy of this form of note was filed at Docket No. 197-14. NextGear produced a copy of the specific note for each of these dealers to Plaintiffs' counsel.) The 43 dealers NextGear identified obtained lines of credit in amounts of \$50,000 and up.

5. In its ordinary course of business, NextGear does nationwide marketing and sales in various forms to potential qualified borrowers. Its field operations and sales personnel

regularly attempt to obtain new customers and win back lost business through various promotional initiatives and individual outreach.

6. In 2018 and 2019, in its ordinary course of business, NextGear activated and terminated over 500 dealers per month on average.

7. To my knowledge, NextGear employees have not communicated with dealers about their status or rights as potential class members in the *Red Barn* litigation. Account executives and regional sales personnel have never been provided with a class list, so they would not know if a particular dealer was in the class. Additionally, NextGear has not directed any employee to hold any such discussions with class members.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and accurate to the best of my knowledge.

Executed at Carmel, Indiana, this 6 day of May, 2020.

John Wick

